The opinion in support of the decision being entered today was ***not*** written for publication and is ***not*** binding precedent of the Board.

Paper No. 49

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex Parte JEAN-PIERRE SCHIRMANN,
JEAN-PIERRE PLEUVRY and PIERRE TELLIER

Appeal No. 1996-1132
Application 08/217,752

HEARD: April 25, 2001

Before, KIMLIN, KRATZ and JEFFREY T. SMITH, ***Administrative Patent Judges.***

JEFFREY T. SMITH, ***Administrative Patent Judge.***

ON REQUEST FOR REHEARING

Appellants have filed a paper under 37 CFR § 1.197(b) requesting that we reconsider our decision of May 31, 2001, wherein we affirmed the rejection of claims 1, 3-10 and 12-22 as unpatentable under 35 U.S.C. § 103.

37 CFR § 1.197(b) provides as follows:

> Appellant may file a single request for rehearing within two months from the date of the original decision, unless the original decision is so modified by the decision on rehearing as to become, in effect, a new decision, and the Board of Patent Appeals and Interferences so states. The request for rehearing must state with particularity the points believed to have been misapprehended or overlooked in rendering the decision and also state all other grounds upon which rehearing is sought. See § 1.136(b) for extensions of time for seeking rehearing in a patent application and § 1.550(c) for extensions of time for seeking rehearing in a reexamination proceeding.

Appellants assert that the Board has overlooked and/or misconstrued limitations appearing in claim 1. Specifically Appellants state:

> [C]laim 1 according to the present invention requires, *inter alia*:
>
> > (iii) withdrawing azine final product thus formed from said circulating reaction medium to maintain the volume thereof essentially constant,
> >
> > (iv) heating said circulating reaction medium to a temperature of at least 130˚C...
>
> Thus, as set forth above, the process of the presently claimed invention requires the step of withdrawing azine final product from the reaction medium (step iii) and heating said circulating medium (which does not include the azine reaction product, which was removed in step (iii)) to a temperature of at least 130˚C (step (iv)). Appellants respectfully submit that neither the grounds for rejection nor the Decision rendered May 31, 2001 fully account for these requirements. [Rehearing Request, p. 2]

We cannot agree. Claim 1 does not require that step (iii) occur before and separate from step (iv) as the Appellants seem to think. ***In re Morris,*** 127 F.3d 1048, 1056, 44 USPQ2d 1023, 1029 (Fed. Cir. 1997) ("It is the applicants' burden to precisely define the invention, not the PTO's."). Appealed claim 1 does not require the azine product to be removed from the circulating reaction medium prior to heating to a temperature of at least 130˚C. Claim 1 also does not require the circulating reaction medium to be devoid of azine when heated to a temperature of at least 130˚C. According to the specification, page 9, the azine can be removed by a distillation process. The specification, page 10, also discloses distillation is suitable for removing water from the circulating reaction medium. Unless the steps of a method actually recite an order, the steps are not ordinarily construed to require a particular order. ***Interactive Gift Express, Inc. v. Compuserve, Inc.,*** 256 F.3d 1323, 1342, 59 USPQ2d 1401, 1416 (Fed. Cir. 2001) (holding no order required). The present record does not indicate that azine is not be removed while the heating circulating reaction medium.

In summary, we have reconsidered our decision in light of all of the arguments made in the appellants' request. However, we see no compelling reason

justifying a different result. Accordingly, we decline to modify our original decision.

Time for taking action

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

REHEARING-DENIED

EDWARD C. KIMLIN Administrative Patent Judge	)
PETER F. KRATZ Administrative Patent Judge	) BOARD OF PATENT) APPEALS AND) INTERFERENCES
JEFFREY T. SMITH Administrative Patent Judge	)

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